

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

NYLAEKIA MIKES,

Plaintiff,

v.

**ALBERTSONS COMPANIES, LLC, a
Delaware Corporation,**

Defendant.

Case No. 3:17-cv-01400-JR

ORDER

Michael H. Simon, District Judge.

United States Magistrate Judge Jolie A. Russo issued Findings and Recommendation in this case on April 10, 2019. ECF 25. Magistrate Judge Russo recommended that Defendant's motion for summary judgment (ECF 19) be granted.

Under the Federal Magistrates Act ("Act"), the Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). If a party files objections to a magistrate judge's findings and recommendations, "the court shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made." *Id.*; Fed. R. Civ. P. 72(b)(3).

For those portions of a magistrate judge's findings and recommendations to which neither party has objected, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) ("There is no indication that Congress, in enacting [the Act], intended to

require a district judge to review a magistrate's report to which no objections are filed."); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (holding that the court must review *de novo* magistrate judge's findings and recommendations if objection is made, "but not otherwise"). Although in the absence of objections no review is required, the Magistrates Act "does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard." *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that "[w]hen no timely objection is filed," the Court review the magistrate judge's recommendations for "clear error on the face of the record."

Plaintiff timely filed an objection. ECF 27. Plaintiff argues that she met her burden in presenting a *prima facie* case of race discrimination. The Court has reviewed *de novo* those portions of Magistrate Judge Russo's Findings and Recommendation to which Plaintiff has objected, as well as Defendant's response. The Court agrees with Magistrate Judge Russo's reasoning and ADOPTS those portions of the Findings and Recommendation.

For those portions of Magistrate Judge Russo's Findings and Recommendation to which neither party has objected, this Court follows the recommendation of the Advisory Committee and reviews those matters for clear error on the face of the record. No such error is apparent.

The Court **ADOPTS** Magistrate Judge Russo's Findings and Recommendation, ECF 25. Defendant's motion for summary judgment (ECF 19) is GRANTED.

IT IS SO ORDERED.

DATED this 24th day of May, 2019.

/s/ Michael H. Simon
Michael H. Simon
United States District Judge